

T-17J

March 22, 1996

Mr. Bill Tans
Wisconsin Department of
Natural Resources
P.O. Box 7921
101 S. Webster St.
Madison, WI 53707-7921

Mr. David Ballman
U.S. Army Corps of Engineers
St. Paul District
190 Fifth Street E.
St. Paul, MN 55101

RE: WDNR Response to EPA's TMA/RCRA comments

Dear Mr. Tans and Mr. Ballman:

EPA wishes to thank the WDNR for their response to EPA's comments regarding the Tailings Management Area Feasibility Report. I received the WDNR's response on February 29, 1996. I fully support the WDNR's decision to include comments made by the EPA and addressed to the U.S. Army Corps of Engineers (COE), the lead federal agency in the development of the federal Environmental Impact Statement into the WDNR's review process for the Crandon Mine project.

In WDNR's response, the concern that the EPA may have been misleading in one portion of the EPA comment letter, referring to RCRA Subtitle D regulations was raised. EPA's comment (Page 7 of EPA's comment letter dated 2/14/96, comment regarding Section 6.3.1) stated, "However, RCRA Solid Waste Subtitle D requirements are applicable to the TMA." but at the present time, EPA does not have enough information to make a regulatory interpretation to make this statement, so, in response to the WDNR concern, the WDNR is correct in asserting that these design criteria, promulgated at 40 C.F.R. Part 258, Subpart D, presently, legally apply only to municipal solid waste landfill units. EPA does believe, however, that these criteria, and all other requirements of 40 C.F.R. Part 258, serve as useful guidance for the minimal environmental protection appropriate to other solid waste landfills, such as the tailings management area. Accordingly, for example, EPA suggests that a component offering at least the environmental protection of a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec should be considered for the bottom liner of the tailings management area. EPA still recommends that the applicant perform toxicity characteristic leaching procedure (TCLP) analysis on the tailings to confirm that the tailings are not hazardous under 40 C.F.R. §261.24. EPA is aware of and encourages the use of the more stringent aspects of the state's solid waste and other pertinent regulations, as the WDNR is presently applying, with regard to all aspects of the Crandon Mine project.

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In addition to the above, EPA is concerned about the financial assurance aspects of the project. How do the applicant's financial assurance commitments under state regulations compare to those under RCRA Part 258? Do the financial assurance regulations apply only to the applicant (Crandon Mining Co.) or does it also apply to the parent companies (Exxon and Rio Algom) as

well?

If you have any further concerns, comments or questions regarding the EPA's position on this issue, please feel free to contact me at (312) 886-7252.

Sincerely,

Daniel J. Cozza
U.S. EPA's Crandon Mine Project Manager

cc:

Herb Nelson: U.S. BIA
Mark Kuester, U.S. BIA
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